

**TULALIP TRIBES
ORDINANCE # 106**

ATTENDANCE

1. PURPOSE

The purpose of this Ordinance is twofold: First, to provide a vehicle whereby the Tribes may directly intervene to provide assistance to any student covered by this Ordinance, and second, to create a mechanism whereby the Tribes work cooperatively with schools and school districts that are located in whole or part on the Tulalip Indian Reservation or who educate students covered by this Ordinance in order to improve the attendance and behavior of students covered by this Ordinance.

2. COVERAGE

This Ordinance, and its provisions, shall apply to all enrolled members of the Tulalip Tribes of the Tulalip Reservation, to all members of recognized Indian tribes who have significant ties to the Tulalip Tribes and, in addition, to all students of Indian descent and their parents or guardians (to the extent not otherwise covered) who consent to be covered by the terms and conditions of this Ordinance, and any cooperative agreement entered into with a school district.

Referrals of students who are non-Tulalip tribal members shall be accepted only when the student and the student's parent or guardian consents to the referral and agree to participate with the Tribes pursuant to the referral and be bound by this Ordinance for the remainder of the school year.

3. ATTENDANCE MANDATORY

- a. All parents or legal guardians or custodial agencies or custodial adults of any student six years of age and under eighteen years of age, and covered by this Ordinance, shall cause such student to attend school as provided herein, and such student shall have the responsibility to and therefore shall attend school for the full time when such school may be in session.
- b. As used in this Section, "school" shall include the following:
 - 1) The state supported public school district within which the student resides; or
 - 2) A private school or extension program approved either under tribal or state law; or
 - 3) Tulalip Montessori School; or
 - 4) A home-based instructional program as authorized pursuant to RCW 28A.27.010(4), (5), or approved under tribal law designed to allow the student and parent to administer to the unique needs of the student.

4. EXCEPTION TO ATTENDANCE PROVIDED

A student and his or her parent shall be excused from the requirements of this Ordinance and shall not subject to the penalties set out herein if:

- a. The school attended by the student has excused such student from attendance because the student is physically or mentally unable to attend school and the school is providing all legal required services in a home-based or other approved program, is attending a residential school operated by the Tribes, other Indian education agency or the Department of Social and Health Services, or has been temporarily excused upon the request of his or her parents for purposes agreed upon by the school authorities and parent. Such excused absences shall not be permitted if deemed to cause a serious adverse effect upon the students' educational progress.
- b. The student is at least eighteen years of age and if,
 - 1) The school attended by the student determines that such student has already attained a reasonable proficiency in the branches required by law to be taught in the first 12 grades of schooling; or
 - 2) The student is regularly and lawfully engaged in a useful or remunerative occupation; or
 - 3) The student has already met graduation requirements in accordance with the Tulalip Tribal or State Board of Education; or
 - 4) The student has received a certificate of educational competence under rules and regulations established by the Tulalip Tribal or State Board of Education; or
 - 5) The student has already met graduation requirements, if any, that are lawfully imposed by the Tulalip Tribes and that preempt state requirements.
- c. A parent for the purpose of this Ordinance means a parent, guardian, caregiver, or person having legal custody of a student.

5. COOPERATIVE AGREEMENT WITH STATE SCHOOL DISTRICT

- a. The Tulalip Tribes of the Tulalip Reservation may by acting through the Tulalip Board of Directors enter into cooperative agreements with any school operating in whole or in part on the Tulalip Indian Reservation for purposes of increasing and improving the attendance of students who are covered by this Ordinance or for addressing behavioral problems that could lead to a student covered by an agreement being removed from school.
- b. All agreements authorized under this section shall be in writing and shall be approved by the Tulalip Board of Directors. No agreement shall authorize the expenditures of any funds by the Tribes, unless approved by the full Tulalip Board of Directors; nor shall any agreement waive the sovereign immunity of the Tribes, its agencies, employees or agents.
- c. Every agreement entered into under the authority of this Section shall contain the following provisions:
 - 1) The cooperating school shall refer to the Family Advocate, designated under the Agreement, all enrolled students covered by the Agreement who have failed without valid justification recurrently, or in excess of three days per month, to attend school; and

- 2) The cooperating school may refer to the Family Advocate students who are discipline problems and/or not achieving academically; and
- 3) The cooperating school shall agree not to suspend or expel a student referred under a cooperative agreement as allowed under this Ordinance after the referral to the appropriate Tulalip Tribes agency(ies) provided under the Agreement, unless suspension or expulsion is required because the student creates a danger to himself and/or others, or the school; and
- 4) The Tribes shall agree to enforce the provisions of this Ordinance with respect to each student referred by a school to the Tribes. In acting under this provision, the Tribes, and its designated Family Advocate and appropriate agency shall work with and in cooperation with the school in order to develop the best program and plan to correct the attendance or discipline problems of the referred student; and
- 5) The Tribes shall in each cooperative agreement designate a Tribal employee to act as Family Advocate; and

6. FAMILY ADVOCATE - DUTIES

Whenever a student is referred to a Tribal Family Advocate pursuant to a cooperative agreement entered into as provided under this Ordinance, or whenever a parent of an enrolled student, or a Liaison informs a Tribal Family Advocate that a student required to attend school fails to attend school without valid justification recurrently or for an extended period of time, the Family Advocate, shall, where appropriate, take some or all of the following actions:

- a. Inform the student's custodial parent, parents or guardian by a notice in writing and by other means reasonably necessary to achieve notice of the fact that the student has failed to attend school without valid justification recurrently or for an extended period of time; and
- b. Schedule a conference or conferences with the custodial parent, parents or guardian and student at a time and place reasonably convenient for all persons included for the purpose of analyzing the causes of the student's absences; and
- c. Take steps in coordination with the school that the student is required to attend to eliminate or reduce the student's absences. These steps may include, where appropriate, adjusting the student's school program or school or course assignment, providing more individualized or remedial instruction, preparing the student for employment with specific vocational courses or work experience, or both, and assisting the parent or student to obtain supplementary services that might eliminate or alleviate the cause or causes for the absence from school; and
- d. Provide additional or continuing counseling for the parent, the student, or both, and provide any other program that is reasonably designed to correct the attendance problems of the student; and
- e. In those situations where a school refers a student with discipline problems to the Family Advocate, the advocate, in cooperation with the school, shall develop a program that is designed to correct the behavior of the student, which program can include the student, parent, guardian or custodian of the student; and
- f. Any parent or student subject to this Ordinance refusing to comply with the

provisions of this section within a reasonable time after being ordered to comply by the Tribal Court pursuant to an action initiated pursuant to Section 7, shall be subject to the fines and penalties set out in Section 9 of this Ordinance.

7. PETITION TO TRIBAL COURT FOR VIOLATIONS BY A PARENT OR STUDENT-
APPLICABILITY OF ORDINANCE

If action taken pursuant to Section 6 is not successful in substantially reducing a student's absences from school or if the parent or students refuse to comply voluntarily, any of the following actions may be taken:

- a. The Family Advocate may petition the Tribal Court to assume jurisdiction under this Ordinance for the purpose of alleging a violation of Section 3 of this Ordinance by the parent or student; or
- b. A petition alleging a violation of Section 3 of this Ordinance by a student may be filed with the Tribal Court by the parent of such student or by the Family Advocate at the request of the parent. If the Court assumes jurisdiction in such an instance, the provisions of this Ordinance, except where otherwise stated, shall apply.

8. FAMILY ADVOCATE ADDITIONAL AUTHORITY

- a. To aid in the enforcement of this Ordinance, the Family Advocate(s) shall be appointed by the Tulalip Board of Directors. Appointment may be from existing staff or new staff authorized by the Tulalip Board of Directors.
- b. the Family Advocate(s) shall work with Tribal Law Enforcement to make arrests and serve all legal processes contemplated under this Ordinance, and shall have authority to enter all places pursuant to law in which students may reside, may recreate or may be employed, for the purpose of making such investigations as may be necessary for the enforcement of this Ordinance.
- c. The Family Advocate is authorized to take into custody any student enrolled in the Tulalip Tribes, when the student is six years of age and not over eighteen years of age, when the Family Advocate has reasonable grounds to believe that the student may be truant from school, and thereafter to conduct such student to his/her parents, for investigation and explanation, or to the school which he/she should properly attend.
- d. The Family Advocate shall keep a record of his transactions for the inspection and information of any school with an agreement with the Tribes and the Tulalip Board of Directors and shall make a detailed report to the Tulalip Board of Directors once per month or as often as the same may be required.

9. PENALTIES IN GENERAL - DEFENSE - COMPLAINTS TO COURT

- a. Any person found by the Tulalip Tribal Court to have violated or to be violating any of the provisions of this Ordinance shall be subject to diversionary action. The Tribal Court may order that the parent, or the student or both comply with the program set out by the Tribal Family Advocate, or as modified by the Tribal Court. The Tribal Court may order a parent to pay a penalty of up to \$25.00 per

- day for failure to comply with a Court order under this Ordinance.
- b. It shall be a defense for a parent charged with violating this Ordinance to show that he or she exercised reasonable diligence in attempting to cause a student in his or her custody to attend school or that the student's school did not perform its duties as required under the law. A parent charged with violating this Ordinance shall participate with the Tribes, the school and the student in a supervised plan for the student's attendance at school, and shall attend a conference or counseling scheduled by the Tribal Family Advocate for the purpose of analyzing the causes of a student's absence, and shall comply with any other plan determined by the Court to be appropriate to assist the student to attend school.
 - c. Where the court proceeding involves a student referred for discipline reasons, the Court may revise the diversionary action if the student agrees to comply with a plan developed by the Family Advocate, as it may be modified by the Court.

10. **PROSECUTING ATTORNEY OR ATTORNEY FOR DISTRICT TO ACT FOR COMPLAINANT**

The Family Advocate or Tribal prosecuting attorney or an attorney from the School District may act as attorney for the complainant in all court proceedings relating to the compulsory attendance of students as required by this Ordinance except for those petitions filed against any student by the parent without the assistance of the Family Advocate.

11. **REPORTS BY FAMILY ADVOCATE - COMPILATION OF INFORMATION AND REPORTS**

The Family Advocate shall report monthly to the Tulalip Board of Directors on the petitions filed alleging a violation by a student under this Ordinance. The report shall, at a minimum, contain:

- a. The number of petitions filed by a Family Advocate or by a parent;
- b. The frequency of each action taken under this Ordinance prior to the filing of such petition;
- c. Disposition of cases filed with the Tribal Court, including the frequency of orders issued to enforce a court's order.

12. **USE IN NEED OF CARE PROCEEDING**

The failure to comply with an order of the Tribal Court entered pursuant to this Ordinance may be grounds for Court action in any action brought pursuant to Ordinance of the Tribal Law.

Legislative History

Adopted by Reso. 00-056, Laws of Feb. 3, 2000.

Approved, Feb. 23, 2000, Superintendent, Puget Sound Agency.